

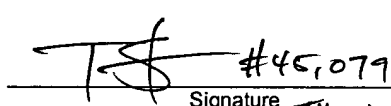
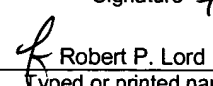
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PTO/SB/33 (07-05)

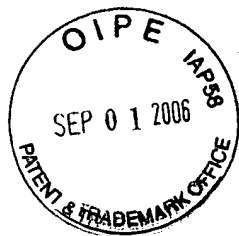
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		03226/448001; SUN030086
	Application Number 10/622,047-Conf. #2269	Filed July 16, 2003
	First Named Inventor Mihir Sambhus et al.	
	Art Unit 2176	Examiner J. J. Debrow
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal. 32615</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div><div><input type="checkbox"/> applicant /inventor.</div><div><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</div><div><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>46,479</u></div><div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</div></div> <div><div> #45,079 Signature <u>THOMAS SCHUBER</u></div><div> Typed or printed name <u>Robert P. Lord</u></div><div><u>(713) 228-8600</u> Telephone number</div><div><u>September 1, 2006</u> Date</div></div>		

☐ *Total of 1 forms are submitted.



Application No.: 10/622,047

Docket No.: 03226/448001; SUN030086
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Mihir Sambhus et al.

32615

Application No.: 10/622,047

Confirmation No.: 2269

Filed: July 16, 2003

Art Unit: 2176

For: METHOD AND SYSTEM FOR CLIENT
AWARE CONTENT AGGREGATION AND
RENDERING IN A PORTAL SERVER

Examiner: James J. Debrow

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-29 are pending in the application and stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication 2002/0107891 (hereinafter "Leamon"). The Applicant respectfully asserts that in maintaining this rejection and issuing an advisory action, the Examiner has failed to satisfy the requirements set forth in MPEP § 2143. Specifically, "[a] claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference [emphasis added]."

Independent claim 1 recites, in part:

receiving content from a plurality of channels, the plurality of channels comprising both *rendering providers* and *non-rendering providers*;

aggregating the content from the plurality of channels using an aggregator, the aggregator configured to process the content using a first markup language;

Independent claim 6 recites, in part:

providing a first channel having content in a first markup language, wherein the first channel is a *rendering provider*;

providing a second channel having content in the first markup language, wherein the second channel is a *non-rendering provider*;

aggregating the first channel content with the second channel content to form a first document in the first markup language;

Independent claim 14 recites, in part:

a first channel having content in a first markup language, wherein the first channel is a *rendering provider*;

a second channel having content in the first markup language, wherein the second channel is a *non-rendering provider*;

an *aggregation* of the first channel content with the second channel content to form a first document in the first markup language

Independent claim 22 recites, in part:

code for providing a first channel having content in a first markup language, wherein the first channel is a *rendering provider*;

code for providing a second channel having content in the first markup language, wherein the second channel is a *non-rendering provider*;

code for *aggregating* the first channel content with the second channel content to form a first document in the first markup language

A. The Examiner is erroneously equating the claimed rendering provider and non-rendering provider with the rendering process of Leamon.

Independent claims 1, 6, 14, and 22 each require content from a rendering provider and a non-rendering provider. The Applicant has previously explained that a non-rendering provider is a provider of content that is *already* in a device-specific format, while a rendering provider is a provider of content that must first be rendered to the device-specific format (*see, e.g.*, page 9, line 14 – page 10, line 8 of the Specification as published). In rejecting these claims, the Examiner is erroneously equating the rendering process of Leamon with the rendering and non-rendering providers recited in the claims (*see* Office Action dated May 1, 2006, page 3). While Leamon is admittedly directed to rendering content to be outputted to a client device, *none* of the

content in Leamon is initially received in a device-specific format. Said another way, because *all* content in Leamon must be rendered to a device-specific format, *all* of the content providers in Leamon are, by definition, *rendering* providers (*see, e.g.,* Leamon, paragraph [0020]). Accordingly, Leamon is completely silent with respect to the *non-rendering* provider recited in the claims. Thus, in making this rejection, the Examiner is reading out an express limitation of the claims and mischaracterizing the cited art, which is wholly improper.

B. A non-rendering provider is not inherent in view of the teachings of Leamon.

Further, in the Advisory Action dated July 21, 2006, the Examiner asserts that a non-rendering process is inherent in Leamon in order to identify the specific device type for which to customize content from a non-rendering provider (*see* Advisory Action dated July 21, 2006, page 2). The Applicant respectfully submits that the claims recite a non-rendering *provider*, not the “non-rendering process” to which the Examiner’s argument is directed. In addition, identifying a device type is *clearly* not *at all* equivalent to the concept of a non-rendering provider. Further, in arguing the inherency of a non-rendering *process*, the Examiner is simply *assuming* the existence of a non-rendering *provider*, and supplies no indication *whatsoever* of where Leamon expressly or inherently describes a non-rendering provider, which is wholly improper.

C. The Examiner is mischaracterizing the disclosure of Leamon to teach aggregation.

Moreover, independent claims 1, 6, 14, and 22 each require aggregating content from multiple channels. Even assuming *arguendo* that Leamon expressly or inherently describes a non-rendering provider, Leamon is completely silent with respect to *any* sort of content aggregation *whatsoever*. The Examiner relies on Figs. 2, 4-7 and paragraphs [0019-0021] and

[0025-0029] of Leamon to describe aggregating content (*see* Office Action dated May 1, 2006, page 3). However, while the rendering engine described in the cited passages is admittedly configured to render content from multiple sources *separately*, Leamon is completely silent with respect to *aggregating* content from those sources. Thus, in equating the simple rendering of Leamon with the aggregating recited in the claims, the Examiner is reading out an express limitation of the claims and mischaracterizing the cited art, which is wholly improper.

D. The Examiner is ignoring the plain meaning of the term “aggregating.”

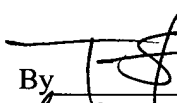
Further, in the Advisory Action dated July 21, 2006, the Examiner asserts that formatting of content for a particular device, as disclosed by Leamon, is equivalent to the aggregating recited in the claims (*see* Advisory Action dated July 21, 2006, page 2). While the Applicant acknowledges that the Examiner is required to give the claims their broadest reasonable interpretation, the Examiner is clearly ignoring the plain meaning of the term “aggregating.” Specifically, aggregating refers to gathering elements into a mass, sum, or whole (*see, e.g.,* The American Heritage® Dictionary of the English Language: Fourth Edition, 2000, as cited at <http://www.bartleby.com>). The claims clearly recite that content from multiple channels is aggregated. The Examiner implies that because the Aggregator described in the Specification is configured to forward content for rendering (*see* page 11, lines 14-16 of the Specification), aggregating is equivalent to rendering. However, the passage referenced by the Examiner merely describes one function of the Aggregator, and does not describe its *primary* function, namely, to *aggregate* content from multiple channels. Thus, in maintaining this rejection, the Examiner is mischaracterizing the invention and ignoring the plain meaning of the term “aggregating,” which is wholly improper.

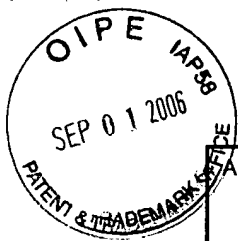
E. The Examiner has clearly failed to satisfy the requirements set forth in MPEP § 2143.

In view of the above, the Examiner has clearly failed to satisfy the requirements set forth in MPEP § 2143 with respect to independent claims 1, 6, 14, and 22. Claims 2-5, 7-13, 15-21, and 23-29 depend, directly or indirectly, from independent claims 1, 6, 14, and 22, respectively. Accordingly, the Examiner has also failed to satisfy the requirements set forth in MPEP § 2143 with respect to dependent claims 2-5, 7-13, 15-21, and 23-29, for at least the same reasons. Accordingly, a favorable decision from the panel is respectfully requested.

Dated: September 1, 2006

Respectfully submitted,

By  #45,079
Robert P. Lord THOMAS SCHWARTZ
Registration No.: 46,479
OSHA · LIANG LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant



Application No. (if known): 10/622,047

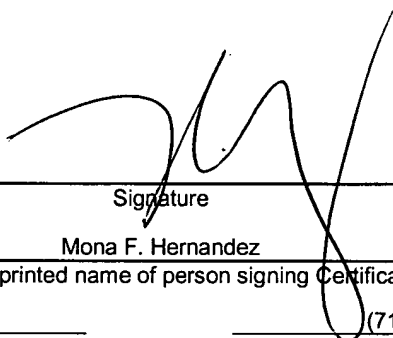
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